

REMARKS

Claims 1, 2 and 5-7 are pending in the application. In the non-final Office Action of January 11, 2006, the Examiner made the following disposition:

- A.) Rejected claims 1 and 2 under 35 U.S.C. 102(e) as allegedly being anticipated by *Hisanaga*.
- B.) Rejected claim 5 under 35 U.S.C. §102(e) as allegedly being anticipated by *Yamato*.
- C.) Rejected claims 6 and 7 under 35 U.S.C. §102(e) as allegedly being anticipated by *Wong*.

Applicants address the Examiner's disposition as follows:

- A.) Rejection of claims 1 and 2 under 35 U.S.C. 102(e) as allegedly being anticipated by *Hisanaga*:

Applicants respectfully disagree with the rejection.

Independent claim 1 claims subject matter relating to transmitting packets on a packet network. Claim 1 claims controlling a timing of packet transmission in a transmission terminal on a packet network, and controlling the amount of data to be transmitted per unit time from the transmission terminal to the network. A packet is transmitted at an interval according to a packet size.

This is clearly unlike *Hisanga*, which fails to disclose or suggest that a packet is transmitted at an interval according to packet size. *Hisanga* teaches a system that controls when data is to be transmitted based on when a previous transmission will be completed. *Hisanga* 8:32-36. To determine when a previous transmission will be completed, *Hisanga* takes into account the predicted time required for re-transmission. *Hisanga* 12:9-12. To calculate the predicted time for re-transmission, *Hisanga* uses the value for the amount of data transmitted. *Hisanga* 12:29-35.

Thus, unlike Applicants' claim 1, *Hisanga* fails to teach that a packet is transmitted at an interval according to packet size. In fact, nowhere does *Hisanga* even mention that packet size is taken into consideration when determining a packet transmission interval. The Examiner argues that the text at *Hisanga* 12:16-28 discloses this claimed subject matter, however, Applicants disagree. As discussed above, that passage from *Hisanga* merely teaches that *Hisanga* uses the value for the amount of data transmitted to calculate the predicted time for re-transmission. Therefore, that passage from *Hisanga* is unrelated to a packet being transmitted at an interval according to a packet size.

For at least these reasons, *Hisanga* fails to disclose or suggest claim 1.

Claim 2 depends directly or indirectly from claim 1 and is therefore allowable for at least the same reasons that claim 1 is allowable.

Applicants respectfully submit the rejection has been overcome and request that it be withdrawn.

B.) Rejection of claim 5 under 35 U.S.C. §102(e) as allegedly being anticipated by Yamato:

Applicants respectfully disagree with the rejection.

Independent claim 5 claims time calculating means for calculating time necessary for transmitting a packet, and means for controlling a timing of packet transmission based on the time for transmitting each packet, calculated by the time calculating means.

This is clearly unlike *Yamato*, which fails to disclose or suggest controlling a timing of packet transmission based on the calculated time necessary for transmitting each packet. *Yamato* teaches calculating a transmission time period (Figure 9, S1004; Figure 12, S1204). However, *Yamato* does not control a timing of packet transmission based on a calculated time necessary for transmitting each packet. *Yamato* elements 601, 602, and 604 control transfer of data. Nowhere does *Yamato* suggest that any of these elements control timing of packet transmission based on a calculated time necessary for transmitting each packet. Instead, as clearly shown in *Yamato* Figure 18, *Yamato* merely starts transfers all data when the number of read-data buffers exceeds a predetermined number. *Yamato* 18:20-33. This is unrelated to timing packet transmission based on a calculated time necessary for transmitting each packet.

Therefore, *Yamato* fails to disclose or suggest claim 5.

Applicants respectfully submit the rejection has been overcome and request that it be withdrawn.

C.) Rejection of claims 6 and 7 under 35 U.S.C. §102(e) as allegedly being anticipated by Wong:

Applicants respectfully disagree with the rejection.

Claims 6 and 7, each as amended, each claim subject matter relating to packet order being controlled by software in an application layer and packet flow rate being controlled in a data link layer by hardware. The time necessary for a packet transmission is calculated in the application layer. A packet is passed together with the calculated time for packet transmission to the data link layer where packet flow rate is controlled based on the calculated time for packet transmission.

This is clearly unlike *Wong*, which fails to disclose or suggest deciding packet order in an application layer and deciding packet flow rate in a data link layer. In fact, *Wong* fails to mention any processing in the application layer or data link layer of the protocol stack. For at least this reason, *Wong* fails to disclose or suggest claims 6 and 7.

Applicants respectfully submit the rejection has been overcome and request that it be withdrawn.

CONCLUSION

In view of the foregoing, it is submitted that claims 1, 2 and 5-7 are patentable. It is therefore submitted that the application is in condition for allowance. Notice to that effect is respectfully requested.

Respectfully submitted,

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